

Message Text

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ORIGIN IO-10

INFO OCT-01 ISO-00 AF-06 ARA-10 EA-10 EUR-12 NEA-09 OIC-02

EB-07 AID-05 USIE-00 INRE-00 NSCE-00 SSO-00 CIAE-00

DODE-00 PM-03 H-02 INR-07 L-02 NSAE-00 NSC-05 PA-02

PRS-01 SP-02 SS-15 /111 R

DRAFTED BY TO/CMD:RAPOOLE; L/UNA:ASURENA

APPROVED BY IO/CMD:RAPOOLE

IO/UNP - J. BAKER

IO/COR - J. FOX

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FM SECSTATE WASHDC

TO USMISSION USUN NEW YORK IMMEDIATE

UNCLAS STATE 082799

E.O. 11652: N/A

TAGS: UN, ECOSOC

SUBJECT: 58TH ECOSOC: AGENDA ITEM 4 (RULES OF PROCEDURE)

REF: USUN 1124

1. FOLLOWING GUIDANCE PROVIDED IN THE EVENT (WHICH YOU ANTICIPATE) THAT ECOSOC SHOULD DECIDE TO TAKE UP DRAFT REVISIONS OF RULES OF PROCEDURE RATHER THAN CONTINUING MANDATE OF AD HOC WORKING GROUP SO LATTER COULD UNDER-TAKE SECOND READING AND ATTEMPT TO RESOLVE DIFFERENCES (WHICH WOULD BE OUR PREFERENCE, PER POSITION PAPER).

2. DRAFT RULES CITED BELOW (MOSTLY IN AREAS YOU FLAG IN REFTEL) POSE PARTICULAR PROBLEMS, ALTHOUGH WE HOPE YOU WILL FLAG ANYOTHERS THAT STRIKE YOU:

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- (A) DRAFT RULE 59. THIS NEW RULE (I.E. REQUIRING

VOTE ON PROPOSAL OR MOTION IF REQUESTED) STATES A NORM WHICH, TO OUR KNOWLEDGE, HAS NEVER BEEN DOUBTED. EVEN ADVOCATES OF "CONSENSUS" DECISION TAKING HAVE NOT DISPUTED EXISTENCE OF THIS NORM, BUT ON NUMEROUS OCCASIONS HAVE URGED STATES NOT TO EXERCISE THEIR ACKNOWLEDGED RIGHTS UNDER IT. ACCORDINGLY, RULE 59 DID NOT HAVE TO BE STATED EXPRESSLY IN RULES OF PROCEDURE.

HOWEVER, SINCE IT IS STATED, IT WOULD UNDOUBTEDLY BE HARMFUL TO HAVE IT DELETED--UNLESS ITS DELETION COULD BE ACCOMPLISHED IN SUCH A WAY AS NOT TO ADVERSELY AFFECT THE RIGHT OF A STATE TO DEMAND A VOTE. (WHILE FOOTNOTE ON RULE 59 DOES NOT RPT NOT INDICATE THERE WAS ANY WORKING GROUP OPPOSITION TO RULE 59, DEPARTMENT WISHES ONLY TO HIGHLIGHT IMPORTANCE WITH WHICH WE VIEW THIS PROVISION). USDEL SHOULD EXERT STRONG EFFORT TO HAVE RULE 59 ADOPTED. IF, HOWEVER, RULE 59 IS VOTED ON AND REJECTED, USDEL SHOULD MAKE STATEMENT ALONG LINES THAT IT WAS UNNECESSARY TO INCLUDE RULE 59 IN RULES OF PROCEDURE BECAUSE IT STATED AN OBVIOUS PRINCIPLE THAT APPLIES IN ALL UN ORGANS WHETHER OR NOT EXPRESSLY STATED IN RULES OF PROCEDURE. ALTERNATIVELY, IF USDEL PERCEIVES STRONG OPPOSITION TO RULE 59, IT WOULD BE PREFERABLE NOT TO VOTE ON RULE 59, BUT BY GENERAL AGREEMENT TO HAVE ECOSOC CONCUR IN ITS DELETION, WITH STATEMENT MADE, PREFERABLY BY CHAIRMAN (AS UNDERSTANDING OF ECOSOC), OR BY VARIOUS DELS, THAT RULE 59 IS UNNECESSARY STATEMENT OF THE OBVIOUS.

- (B) DRAFT RULE 62. AS INDICATED IN POSITION PAPER, WE QUESTION THE NEW PROVISION (BASED ON GA RULE 88) THAT SPONSORS MAY NOT EXPLAIN THEIR VOTES. (SEVERAL CO-SPONSORS OF THE CERDSDID SO IN THE GA DESPITE THE GARULE). LEGITIMATE NEED FOR EXPLANATION CAN ARISE PARTICULARLY WHEN RESOLUTION IS VOTED AFTER BEING REVISED OR AMENDED. WE WOULD THEREFORE PREFER ELIMINATION OF THIS RESTRICTION AT LEAST INsofar AS IT APPLIES TO EXPLANATIONS AFTER THE VOTE. (WE SEE MORE JUSTIFICATION FOR LIMITING SUCH EXPLANATIONS BEFORE THE VOTE, AS THEY MIGHT BE USED BY CO-SPONSORS IN EFFECT UNCLASSIFIED

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AS EXTENSIONS OF DEBATE). WE ACKNOWLEDGE COUNTER-ARGUMENT THAT SPONSORS SHOULD WITHDRAW IF THEY HAVE PROBLEMS, BUT WE BELIEVE RULE SHOULD ALLOW FOR MIDDLE GROUND WHERE WITHDRAWAL WOULD NOT BE WARRANTED IF EXPLANATION COULD BE MADE OR WHERE CO-SPONSOR MIGHT SIMPLY WISH TO STATE HIS UNDERSTANDING OF A POINT. IN ANY EVENT, DELEGATION HAS DISCRETION TO WORK OUT WHATEVER SEEMS FEASIBLE OR TO GIVE WAY IF PREPONDERANT VIEW IS

OTHERWISE.

- (C) DRAFT RULE 64. AS ALSO INDICATED IN POSITION PAPER, WE QUESTION THE NEW PROVISION (BASED ON GA RULE 89) THAT A REQUEST FOR VOTING BY PARTS CAN BE CHALLENGED AND VOTED ON, AS THIS WOULD UNDERCUT THE ABILITY OF A STATE TO EXPRESS PRECISELY ITS POSITION ON A PARTICULAR ISSUE. BY PERMITTING DENIAL OF LEGITIMATE REQUEST FOR VOTING BY

PARTS, OR ON A PARTICULAR PART, DRAFT RULE COULD OFTEN FORCE A COUNTRY INTO A MORE NEGATIVE POSITION ON THE REMAINDER THAN IT OTHERWISE WOULD HAVE REGISTERED. WE HAVE, OF COURSE, HAD UNHAPPY EXPERIENCES IN GA ON THIS SCORE. PRESENT RULE IS PREFERABLE IN THAT IT DOES NOT PERMIT A CHALLENGE TO SEPARATE VOTE REQUEST.

- (D) DRAFT RULE 72. (PARTICIPATION OF NON-MEMBERS OF ECOSOC). INSTRUCTIONS ON NEW DRAFT (USUN 1124) BEING SENT SEPT. WE UNDERSTAND NATIONAL LIBERATION MOVEMENT QUESTION DORMANT FOR MOMENT. PLEASE ADVISE IF ISSUE REVIVES.

- (E) DRAFT RULE 81. AS MENTIONED IN POSITION PAPER, WE QUESTION THE UNREASONABLY RESTRICTIVE PROVISION THE ALTERNATIVE WHICH WOULD PERMIT ONLY THE ECOSOC AND NGO COMMITTEE (AND NOT THE NGOS THEMSELVES) TO INITIATE REQUESTS FOR CONSULTATIONS ON GIVEN AGENDA ITEMS.

- (F) DRAFT RULE 82. WE GATHER FROM NGO COMMITTEE REPORT THAT REPRESENTATIVE OF CONFERENCE OF NGOS PROPOSED INCLUSION OF PROVISION TO EXTEND PERMITTED LENGTH OF NGO STATEMENTS WHEN SUBMITTED JOINTLY AND TO PERMIT ORGANIZATIONS ON ROSTER TO ASSOCIATE THEMSELVES WITH UNCLASSIFIED

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JOINT STATEMENTS SUBMITTED BY ORGANIZATIONS IN CATEGORIES I AND II, ALTHOUGH APPARENTLY COMMITTEE ITSELF DID NOT TAKE A POSITION ON THIS. WE HAVE LITTLE FEEL FOR THIS QUESTION AT THIS DISTANCE, SO LEAVE MATTER TO YOUR DISCRETION. KISSINGER

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: MEETING AGENDA, AGREEMENT DRAFT, INSTRUCTIONS, COMMITTEE MEETINGS
Control Number: n/a
Copy: SINGLE
Draft Date: 11 APR 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975STATE082799
Document Source: CORE
Document Unique ID: 00
Drafter: RAPOOLE; L/UNA:ASURENA
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D750126-1105
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19750457/aaaacbck.tel
Line Count: 159
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN IO
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: 75 USUN 1124
Review Action: RELEASED, APPROVED
Review Authority: ShawDG
Review Comment: n/a
Review Content Flags:
Review Date: 28 JUL 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <28 JUL 2003 by JonesKG>; APPROVED <05 JAN 2004 by ShawDG>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
05 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: 58TH ECOSOC: AGENDA ITEM 4 (RULES OF PROCEDURE)
TAGS: SGUN, SHUM, US, UN, ECOSOC
To: USUN NEW YORK
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 05 JUL 2006